
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

LENROY MCLEAN,

Plaintiff,

versus

UNITED STATES OF AMERICA, *et al.*,

Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 1:21-CV-168

**ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

Plaintiff Lenroy McLean, proceeding *pro se*, filed this civil rights action pursuant to *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and the Federal Tort Claims Act (FTCA) against the United States of America, Michael W. Lockhart, J. Baltazar, Sonya Cole, M. R. Lewis, Cathy Cutwright, First Name Unknown (FNU) Heno, FNU Brasfield, Russell Taylor, Wanda Jones, Rodney Davis, FNU Polavarapy, FNU McGarvey, FNU Steffey, FNU Fontenot, FNU Brownfield, FNU Hanson, FNU Williams, FNU Chiles, J. Jones, Deshawn Davis, and FNU Laidled.

The court referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. On June 3, 2025, the magistrate judge recommended dismissing the action for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b). To date, the parties have not filed objections to the report.

The court received and considered the Report and Recommendation of United States Magistrate Judge pursuant to such referral, along with the record, pleadings and all available

evidence. After careful review, the court finds that the findings of fact and conclusions of law of the United States Magistrate Judge are correct.

Because the statute of limitations would bar future litigation of Plaintiff's claims, a dismissal would act as a dismissal with prejudice. A dismissal with prejudice is appropriate only if there is a clear record of delay or contumacious conduct by the plaintiff, and if lesser sanctions would not serve the interests of justice. *Coleman v. Sweetin*, 745 F.3d 756, 766 (5th Cir. 2014). In this case, Plaintiff has not exhibited a clear record of contumacious conduct, but his failure to comply with a court order to notify the court whether he is ready to proceed with this action after requesting an indefinite stay prevents this case from moving forward. The court has considered imposing lesser sanctions and found them inadequate to address the current situation. A dismissal is the only sanction available in this instance, but the court will lessen the sanction by allowing Plaintiff to reopen the case by notifying the court that he is ready to proceed with this action within thirty days of the date the judgment is entered.

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the Report and Recommendation of United States Magistrate Judge (#120) is **ADOPTED**. A final judgment will be entered in accordance with this order.

SIGNED at Beaumont, Texas, this 11th day of July, 2025.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE